IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4412 OF 2005

Arun Nana Mandale ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. V.V. Purwant for the Applicant.
Shri. R.Y. Mirza, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 20, 2005.

P.C.:

1. The offence alleged against the Applicant and other co-accused is under sections 302, 201 read with section 34 of the Indian Penal Code. The case of the prosecution is that one Somnath-son of Mahadu Ambu Jadhav was missing since 28th November, 2004. His dead body was found on 5th December, 2004 on the basis of which the F.I.R. was registered on 6th December, 2004. On 7th December, 2004 statement of father of the deceased was recorded. In the said statement father has not named the present Applicant anywhere. On 10th December, 2004 statement of one Kavita Naidu was recorded who stated that she had relationship with the deceased. She has also stated that a hand-written note found with the dead body of deceased was in her hand-writing. Nearly five months thereafter, i.e. on 1st May, 2005 statement of father of the deceased was recorded. In the said statement for the first time father of the deceased stated that on the day on which deceased Somnath left the house, present Applicant had called him and the deceased was seen talking to the present Applicant in the night on the same day and thereafter, deceased Somnath never came back. In the

said statement the father stated that the Applicant must be the culprit. Statement of one Sadhna Sharad Gaikwad in which she stated that on the relevant date the Applicant was talking to deceased Somanth near a school. On the same day, statement of Applicant is recorded by the police in which he admitted that on 28th November, 2004 he had met the deceased and conveyed the message given by one Pandit Dube to the deceased. He stated that after he conveyed the message to deceased the deceased went away to meet said Pandit Dube and the Applicant came back to his home.

2. Investigation is admittedly complete and chargesheet has been filed. The father of the Applicant has chosen to make allegation against the Applicant nearly five months after his earlier statement was recorded and in the original statement he has not even referred to the name of the Applicant. All these factors make the version of the prosecution doubtful. In the circumstances there is no reason to detain the Applicant after the chargesheet is filed. No criminal antecedents of the Applicant are placed on record. Hence, case is made out for enlarging the Applicant on bail.

3. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with C.R.No.193 of 2004 of Manpada Police Station, subject to furnishing a personal bond of Rs.15,000/- with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iii) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) Application is disposed of in above terms.

vi) The parties to act upon an authenticated copy of this order.

JUDGE